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1: Pension Protection Act of - Wikipedia

The Employee Retirement Income Security Act of (ERISA) is a federal law that sets minimum standards for most voluntarily established pension and health plans in private industry to provide protection for individuals in these plans.

History[edit] In , U. The movement for pension reform gained some momentum when the Studebaker Corporation , an automobile manufacturer, closed its plant in In , Senator John L. Javits R of New York also introduced bills in and increasing regulation on welfare and pension funds to limit the control of plan trustees and administrators and to address the funding, vesting, reporting, and disclosure issues identified by the presidential committee. The Broken Promise, that showed millions of Americans the consequences of poorly funded pension plans and onerous vesting requirements. In the following years, Congress held a series of public hearings on pension issues and public support for pension reform grew significantly. Likewise, as a general rule, it does not require that plans provide a minimum level of benefits. Instead, it regulates the operation of a pension plan once it has been established. ERISA requires that the employers who sponsor plans satisfy certain minimum funding requirements. ERISA also regulates the manner in which a pension plan may pay benefits. The Pension Benefit Guaranty Corporation was established by ERISA to provide coverage in the event that a terminated defined benefit pension plan does not have sufficient assets to provide the benefits earned by participants. There are two main types of pension plans: Defined benefit plans provide retirees with a certain level of benefits based on years of service, salary and other factors. The Consolidated Omnibus Budget Reconciliation Act of COBRA provides some employees and beneficiaries with the right to continue their coverage under an employer-sponsored group health benefit plan for a limited time after the occurrence of certain events that would otherwise cause termination of such coverage, such as the loss of employment. It also bars health benefit plans from certain types of discrimination on the basis of health status, genetic information, or disability. During the s and s, many employers who promised lifetime health coverage to their retirees limited or eliminated those benefits. Employees and retirees who were promised lifetime health coverage may be able to enforce those promises by suing the employer for breach of contract, or by challenging the right of the health benefit plan to change its plan documents to eliminate promised benefits. It was not unusual for a plan to provide no benefit at all to an employee who left employment before the specified retirement age e. The Technical Explanation of H. Different rules apply with respect to employer contributions made before Pension funding[edit] ERISA established minimum funding requirements for pension plans, which includes defined benefit plans and money purchase plans but not profit sharing or stock bonus plans. Before the Pension Protection Act of PPA , a defined benefit plan maintained a funding standard account, which was charged annually for the cost of benefits earned during the year and credited for employer contributions. In , when the PPA funding rules went into effect, single-employer pension plans no longer maintain funding standard accounts. The funding requirement under PPA is simply that a plan must stay fully funded that is, its assets must equal or exceed its liabilities. If a plan is fully funded, the minimum required contribution is the cost of benefits earned during the year. If a plan is not fully funded, the contribution also includes the amount necessary to amortize over seven years the difference between its liabilities and its assets. Stricter rules apply to severely underfunded plans called "at-risk status". The PPA has different funding requirements for multiemployer pension plans, which preserve most of the pre-PPA funding rules, including the funding standard account. As with single-employer plans, multiemployer pension plans that are significantly underfunded are subject to restrictions. The restrictions accompanying each deficient funding status are progressively more severe as funding status worsens. The Supreme Court has created another limitation on the insurance exception, in which even a law that regulates insurance is preempted if it purports to add a remedy to a participant or beneficiary in an employee benefit plan that ERISA did not explicitly provide. Second, a state law relating to an employee benefit plan may be protected from preemption under ERISA if it regulates insurance, banking, or securities. State insurance regulation may be saved only to the extent that it regulates genuine insurance companies or insurance contracts. If a person dies before the case can be heard, however, the claim dies with him or her, since ERISA provides no remedy for injury or wrongful death caused by the withholding of care. Even if benefits are improperly denied, the insurance company cannot be sued for any resulting injury or wrongful death, regardless of whether it acted in bad faith in denying benefits. Insurers operating ERISA plans enjoy several immunities not available to other types of insurance companies. ERISA preempts all conflicting state laws, including state statutes prohibiting unfair claims practices and causes of action arising under state common law for insurance bad faith. The exemption also freezes the law in its original form, meaning the Hawaii legislature is not able to make non-administrative amendments without Congressional approval. The following are some of the ways in which it achieves that goal: Participants must be provided plan summaries. Employers are required to report information about the plan to the Labor Department and provide it to participants upon request. The information is reported on Form , which is available for public inspection. If a participant requests, the employer must provide the participant with a calculation of her or his accrued and vested pension benefits. Employers have fiduciary responsibility to the participants and to the plan. Certain service providers, such as investment managers, have fiduciary responsibilities to the plan. Certain transactions between fiduciary and the plan, or between the plan and certain "parties in interest" are prohibited unless otherwise exempt. Title I also includes the pension funding and vesting rules described above. Plan fiduciaries and plan participants may also bring certain civil causes of action in Federal Court. Phyllis Borzi , who was confirmed on July 10, [1]. Past Assistant Secretaries include the Hon. Campbell , the Hon. Combs and the Hon. The changes include the following: Addition of various requirements for a pension plan to be tax-favored "qualified" , including: The plan must offer retirees the option of a joint-and-survivor annuity Plan benefits may not discriminate in favor of officers and highly paid employees Plans are subject to the pension funding and vesting rules described above. Imposition of maximum limits on the annual benefit that may be paid from a qualified defined benefit pension plan and the annual contribution that may be made to a qualified defined contribution pension plan The creation of individual retirement accounts IRAs. Revision of rules concerning the maximum tax deduction allowed with respect to a contribution to a pension plan Imposition of an excise tax if the employer fails to make a required contribution to a pension plan or engages in transactions prohibited by ERISA Title III: It also created the Joint Board for the Enrollment of Actuaries , which licenses actuaries to perform a variety of actuarial tasks required of pension plans under ERISA. The Joint Board administers two examinations to prospective Enrolled Actuaries. After an individual passes the two exams and completes sufficient relevant professional experience, she or he becomes an Enrolled Actuary. It also describes the procedures that a pension plan must follow to terminate itself, and for the PBGC to initiate an involuntary termination. If the assets are less than the liabilities, the employer must contribute the amount necessary to fully fund the plan. A standard termination is sometimes referred to as a voluntary termination because the employer has chosen to terminate the plan. The plan must purchase annuity contracts for all participants. If the plan permits the payment of lump sums, employees may be offered the choice of a lump sum payment or an annuity. If any assets remain in the plan after a standard termination has been completed, the provisions of the plan control their treatment. Distress termination[edit] An employer may terminate a single-employer plan under a distress termination if the employer demonstrates to the PBGC that one of these conditions exists: Employer faces liquidation under bankruptcy proceedings. Costs of continuing the plan will make the business fail. Depending on the difference between the two values, the termination may be treated as if it had been a standard termination or as if it had been initiated by the PBGC. The employer has not made its minimum required contributions to the plan. The plan will not be able to pay benefits when due. A termination initiated by the PBGC is sometimes called an involuntary termination. The benefits paid by the PBGC after a plan termination may be less than those promised by the employer. See Pension Benefit Guaranty Corporation for details. A multiemployer plan may be terminated in one of three ways: It may be amended so that participants receive no credit for future service. All contributing employers may withdraw from the plan or stop making contributions to it. It may convert into a defined contribution plan. Now, most pension plans have the same protection as an ERISA anti-alienation clause giving these pensions the same protection as a spendthrift trust.

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2: Pension and Employee Benefits: Code ERISA Regulations (as of 1/1/06)

As you know, on April 1, new regulations from the U.S. Department of Labor's governing Employee Retirement Income Security Act of (ERISA) disability benefit claims became effective.

You can review and vote upon the male nominees here. We originally planned on having ten women as finalists. But as we did with the men, due to the [â€¦] Sep 8, at But as we did with the men, due to the strength of the field, we decided to go up to a dozen. You know what that meansâ€¦ pictorial calendars!!! A commenter suggests the proceeds could go to charity. How about the woefully underfunded PBGC? As we did with the men, we picked our twelve female finalists based on 1 their photographs and 2 reader testimonials about them. For your viewing pleasure: Adversaries yell at their clients to shut up and let Iris finishing objecting during depositions. The most common last words heard from her adversaries in a courtroom: Julie is a classmate of mine from law school and a very attractive woman. I always use her as an example of the fact that not all ERISA lawyers are deadly-dull 90 year old men. Partner, Crawford Law Office, P. With her fine features and golden tresses, she could be a movie star from a bygone age. Behold her tall, graceful figure. Admire her long, swan-like neck. Take in her delicate features â€" especially her rosy cheeks â€" as framed by her stylishly short, striking red hair. In short, Sarah is a total knock-out. Principal, Law Office of B. And she does great work for her clients, who adore her. I worked with her at a prior firm, and she could be a model. Tall, thin, totally in shape. You would expect to find her at the beach in San Diego or at kick boxing class I think her current boyfriend is a contractor â€" not in the tax library reseraching esoteric ERISA issues. Very brainy as well: Ask her fellow colleagues at Wilson Sonsini; they may nominate her well. Andrea is the grown-up in the picture. Andrea lives in Oakland, and she is refreshingly not granola-y. Andrea is awesome enough that I credit her with making me want to work for a labor law firm too â€" I thought, if Andrea likes it then it must be cool. I note that these pictures were taken quite recently, just a month after her youngest, Quinn, was born. ERISA governs employee benefit plans, including health and welfare plans. Whip smart and wickedly funny, she is wildly entertaining. She clerked on the Tenth Circuit, for Chief Judge Deanell Reece Tacha, and worked in private practice, before turning to legal academia. As you can see picture attached , Colleen is highly attractive. Instead, she is exceedingly pretty, in the tasteful, professional, dignified way that one would expect of an ERISA attorney. Clients throughout Northern California love her for her tenaciousness, sense of humor and remarkable analytical skills. She still finds time to ride her own horse in something called Dressage competition â€" AND make it to the health club. You can get a testimony from one of the many men who have pursued Lisa and been crushed underfoot by her pointy heels. She is a bit enigmatic, since she spends many hours a week engaging in mental gymnastics over complex issues of tax law, and still finds time to party like a rock star. If it is the latter, I am not sure whether to despise or applaud the effort. Regardless of the reason, I think Lisa is a worthy candidate. We reserve the right to hold a runoff if necessary.

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3: Employee Retirement Income Security Act of - Wikipedia

Start studying Chapter 7- ERISA and Government Regulations. Learn vocabulary, terms, and more with flashcards, games, and other study tools.

Field Assistance Bulletin No. Washington - The U. The PPA amended the Employee Retirement Income Security Act of ERISA to require plan administrators of defined benefit pension plans to provide participants and others with information annually about the funding status of their plans. An estimated 1, multiemployer plans covering approximately 10 million participants and beneficiaries plus 29, single-employer plans covering approximately Many of these plans must furnish their first annual funding notice under the new law no later than April 30, The FAB addresses a need for interim guidance pending the adoption of regulations or other guidance under section f of ERISA by announcing a "good faith" enforcement policy. The FAB also includes technical assistance in the form of questions and answers and model annual funding notices. The FAB provides some background information: These amendments require administrators of all defined benefit plans that are subject to title IV of ERISA, not only multiemployer plans, to provide an annual funding notice to the Pension Benefit Guaranty Corporation PBGC , to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan. The PPA amendments to section f apply to plan years beginning after December 31, , with special rules for disclosing "funding target attainment percentage" or "funded percentage" with respect to any plan year beginning before January 1, Section c of the PPA requires the Department to develop a model annual funding notice within one year of the date of enactment of the PPA. Recently, concerns have been expressed about the imminent compliance date of the new annual funding notice requirements, the absence of regulatory guidance from the Department, and the cost and burdens attendant to annual funding notice compliance efforts prior to the adoption of annual funding notice regulations and the issuance of a model annual funding notice by the Department. It provides for good faith compliance and a model annual funding notice for single-employer and multiemployer defined benefit plans. When must plans first comply with the new annual funding notice requirements? What is the benefit to plan administrators of using the model notices? May the plan administrator of a multiemployer plan use the model in the Appendix to 29 C. Must a plan administrator furnish an annual funding notice to the Pension Benefit Guaranty Corporation? Are all ERISA-covered defined benefit pension plans subject to the new annual funding notice requirement? Section f 2 B iii of ERISA states that an annual funding notice must include "a statement of the number of participants who are I retired or separated from service and are receiving benefits, II retired or separated participants entitled to future benefits, and III active participants under the plan[. On what day of the plan year must the administrator focus when counting participants for purposes of this statement? Section f 2 B iv of ERISA states that an annual funding notice must include "a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan expressed as percentages of total assets as of the end of the plan year to which the notice relates[. Section f 2 B vi states that an annual funding notice must include, "in the case of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year as defined in regulations by the Secretary , an explanation of the amendment, scheduled increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities. May plan administrators add additional or explanatory information to a model? May the annual funding notice be furnished to recipients electronically? For multiemployer plans, how is "each employer that has an obligation to contribute to the plan" defined for purposes of furnishing a model notice? Section f of ERISA requires the disclosure of plan funding information not only for the plan year to which the notice relates, but also for the two plan years preceding that year. Thus, for example, an annual funding notice for the plan year must include PPA funding information pertaining to the and plan years both pre-PPA years. What funding information for these pre-PPA years should the plan administrator include in its model? Do the new annual funding notice requirements apply to plans for which the effective date of the PPA funding rules is delayed in accordance with sections through of PPA, or that are subject to special funding rules in accordance with section of the PPA? May such plans use the model notice in Appendix A?

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4: ERISA Rules and Regulations: DOL Final Regulation - Civil Penalties Under ERISA Section (c)(4)

Filed under ERISA- Ninth Circuit, ERISA- Regulations Tagged with Collections, Elko, ERISA, Fringe Benefits, Las Vegas, LMRA, Nevada, Reno, Taft-Hartley, Trustees Ninth Circuit Clarifies ERISA Liability for Insurers and Other Non-Plan Administrators.

Part I By Eric L. When an insurance policy falls under ERISA, any dispute about the claim is not litigated as a normal insurance contract case under state law. The ERISA claims regulations were first issued in the late s and were updated significantly in The regulations were updated again recently, with new additions to the regulations effective for claims filed after April 1, This first part of a two-part article discusses the ERISA claims regulations generally and how to determine which version applies. The second part will cover the changes in the newest version of the regulations effective for those claims filed after April 1, The new regulations are effective for most types of claims filed after January 1, But, it is important to understand that some older LTD claims might still be covered under the old regulations if the original claim was filed before January 1, Most commonly, the old regulations will apply if a person originally filed for benefits before January 1, , was paid benefits for many years, and was only recently cut off. For instance, in Knight v. Knight was found disabled by Unum and began receiving benefits in Unum then cut off Mr. However, Unum argued that the old regulations applied, because the old regulations allowed an insurance company to give a claimant only 60 days to apply. The court agreed that the old regulations would have applied to a claim that had originally been filed in Knight more time to appeal. What is Covered in all Versions of the Regulations? General Requirement of Reasonableness: These regulations create a general requirement that claims procedures be reasonable. Although claims procedures must be reasonable, plans otherwise have wide discretion in setting the procedures. A plan must allow a person to act through a representative. Benefits decisions must follow the applicable plan procedures and apply the plan procedures consistently. A plan can offer voluntary levels of appeal beyond that, but cannot prevent a person from taking the claim to court if they choose not to pursue the voluntary appeals. Also, if a claimant makes the voluntary appeal, any applicable statute of limitations is tolled until the voluntary appeal is completed. A voluntary appeal can only be offered after a person has completed the maximum two appeals. If offered, the plan must explain who will be deciding the voluntary appeal and whether the decision-maker of the voluntary appeal has any financial or personal interest in the outcome. Lastly, the plan may not charge any fees or costs as part of the voluntary appeal. A plan can offer arbitration as one of the first two appeals. However, a plan cannot require arbitration in addition to the two appeals. Time Deadlines Under the Regulations: Knowledge of the time deadlines is crucial to understanding the regulations. The time deadlines for filing an appeal and for the plan or insurance company to make a decision are spread throughout the regulations, but the highlights are summarized here. Here are a few important rules to remember: There is a general set of deadlines, but there are more specific deadlines that apply to LTD and health insurance claims. If a claim was filed before January 1, , the old regulations apply. Appeal times are a minimum, and the plan can allow for more time. If denied, the time to file an appeal must be reasonable, but not less than days from the date of receipt of the denial. The decision on appeal must be made within 45 days, which may be extended 45 days. An initial decision must be made within 90 days of the application being filed. This decision period can be extended 90 days. Old version of 29 C. The time to file an appeal must be reasonable and related to the nature of the benefit, but not less than 60 days. The decision on appeal must be made within 60 days, which can be extended another 60 days. Deadlines for Other Types of Claims: For example, if you represent a client who has been denied life insurance benefits through a policy provided at work, the general deadlines under the regulations would apply. The general rule is that, when a person files a claim for benefits, the plan has 90 days to make a decision but can give itself another 90 days to make a decision if it sends a written notice that it needs more time. If denied, the claims procedures must allow a claimant 60 days to appeal. Once an appeal is filed, the decision-maker has 60 days to make a decision, which can be extended by another 60 days. However, some types of claims other than LTD claims may not fall under these general deadlines, so make sure you are using the correct deadlines. For instance, health care claims have many different deadlines depending on the type of claim; if you are dealing with a health care claim read the regulations closely. For the ERISA administrator or insurance company making a decision, the time deadlines set out above allow for a certain amount of time to make a decision but that time can be extended. But, once the additional time has run, the administrator is out of time. Also, remember that if a claim is denied and appealed to court, the court will only review the information in the record, which is the information submitted with the appeals and information the insurance company added. Remember, voluntary appeals are not always offered, so attorneys should do their best to submit all the evidence supporting the claim early, during the first appeal. If the plan or insurance company fails to make a decision on time or violates the regulations in some other significant way, the claim is deemed exhausted and claimant has the right to take the case to court immediately. For example, the regulations provide a laundry list of information that must be included in a denial of benefits. A similar list at 29 C. The regulations also require the administrator or insurance company to offer to provide the claimant a copy of all the relevant documents as defined in 29 C. The amendments were not a complete overhaul but only added a few additions to the existing regulations, primarily focused on disability claims. The amendments that make up the new rules are set out in 29 C. The amendments originally were to take effect on or after January 1, ; however, the amendments were put on a temporary hold during the change of administrations, so these changes became effective only for claims filed after April 1,

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5: ERISA Hotties: Your Female Nominees | Above the Law

The Employee Retirement Income Security Act of [2] ERISA was enacted in and became effective January 1, The first claims regulations were issued May 27, (42 FR); were amended January 21, ; (46 FR), and were amended again on April 30, (49 FR).

Pension reform[edit] This legislation requires companies who have underfunded their pension plans to pay higher premiums to the Pension Benefit Guaranty Corporation PBGC and extends the requirement of providing extra funding to the pension systems of companies that terminate their pension plans. This will allow employers to deduct more money using the pension tax shield in times of high profits. It requires actuaries to use the equivalent of the projected accrued benefit cost method for determining annual normal cost. Allows automatic contributions to be returned to employees without tax penalties, if employee opts out within 90 days Established safe harbor investments, also known as Qualified Default Investment Alternatives, to protect employers from liability of losses suffered by automatically enrolled employees Charitable organization reform[edit] The Pension Protection Act also reformed several types of tax-exempt charitable organizations including donor-advised funds , private foundations , and supporting organizations. The Act applies further regulations and penalties that takes away several of the privileges that supporting organizations have over private foundations, such as applying private foundation law of excess benefit transactions, excess business holding rules, and pay out requirements. Tax savings[edit] Public Safety Officers[edit] One tax benefit allowed under the pension protection act is that qualified retired "Public Safety Officers" may exclude from income the cost of health insurance. The exclusion is shown on the tax return as simply subtracting the exclusion from the figure shown on the R form , and placing the smaller figure on the pension income line on the The text literal "PSO" must be written on the dotted line to the left of the figure. IRS Pub has more details. Public safety officers include police, firefighters, emergency medical technicians, and many types of federal and state employees dealing with criminals. In particular, some penalty exceptions are narrowly defined to only covering IRA accounts, excluding k and other plans. It currently guarantees payment of basic pension benefits earned by 44 million American workers and retirees participating in over 29, private-sector defined benefit pension plans. The agency receives no funds from general tax revenues. Operations are financed largely by insurance premiums paid by companies that sponsor pension plans and by investment returns. The case National Foundation, Inc. United States, was instrumental in defining the standards used for Donor Advised Funds. Some of the standards that were included in the act include: Legal definition of a donor-advised fund. A list of prohibited payments to donors and advisers to donor-advised fund. New rules about what grants can be made from donor-advised funds. The documentation required for all contributions to donor-advised funds. Amendments[edit] On December 23, , P. The Act makes technical corrections related to the PPA of

6: ERISA Rules and Regulations: February

The Pension and Employee Benefits: Code, ERISA, Regulations (as of 1/1/06) is your authoritative and comprehensive reference to pension provisions and selected welfare benefit provisions of the Internal Revenue Code and ERISA and the associated regulatory authority, along with related regulations.

7: ERISA- Regulations | Union-side Labor and ERISA Law

The Pension and Employee Benefits Code ERISA Regulations as of January 1, provides the pension/benefits professional with a one-stop resource designed to provide easy access to the law and regulations that govern pension plans, (k) plans, group health insurance and other types of employee benefit plans, all current as of January 1,

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